

UNITED STATES OF AMERICA : CRIMINAL ACTION
:
:
v. :
:
LEONARD TYRONE WATTS, :
a/k/a "SKI" : NO. 92-89-1

MEMORANDUM ORDER

J.M. KELLY, J.

JULY 12, 1999

Presently before the Court are the Complaint to Set Aside Administrative Forfeiture of 1991 Dodge Shadow and the Complaint to Set Aside Forfeiture of 1990 BMW 525i of Leonard Tyrone Watts ("Watts"). The Court reads Watts' Complaints as motions for the return of seized property pursuant to Rule 41(e) of the Federal Rules of Criminal Procedure. The Government has filed Responses thereto, and a hearing on these matters was held today.

Watts has failed to come forward with competent evidence to refute that his attorney, Daniel M. Preminger, Esq., received notice of the seizure of the 1991 Dodge Shadow on or about January 11, 1993. Accordingly, the Complaint to Set Aside Administrative Forfeiture of 1991 Dodge Shadow is DISMISSED.

The Government has admitted that it failed to provide Watts with adequate notice of the forfeiture of the BMW. The appropriate remedy was today's hearing. United States v. Boero, 111 F.3d 301, 307 (2d Cir. 1997).

At the hearing, Watts claimed that he paid for the BMW from his clothing store known as Rags to Riches, prior to his

involvement in the armored car robberies to which he plead guilty. The Government presented evidence that Watts made an initial payment on the BMW prior to his involvement in the robberies, but then went into default on the loan he secured to purchase the BMW. Watts paid approximately \$30,300.00 to pay off the loan and repossession costs after he was involved in the armored car robberies. FBI Agent Daniel Murphy visited Rags to Riches and testified that the store had a small inventory of what looked like used clothing. Watts admitted that he never reported any income from Rags to Riches. Watts also admitted that he owned the BMW. In a colloquy at Watts' sentencing hearing, he admitted that he had participated in robbing armored cars and had used the proceeds to purchase automobiles. Based upon the evidence presented, the Court finds that there was probable cause to forfeit the BMW and Watts has failed to meet his burden of showing that the BMW was purchased from assets other than those acquired from the armored car robberies.

Further, Watts is subject to a restitution order in excess of \$400,000.00. Because the proceeds of the Government's sale of the BMW went to the victims of the armored car robberies, Watts could not have expected a different eventual result of the disposition of his BMW.

Accordingly, the Complaint to Set Aside Forfeiture of 1990 BMW 525i is DENIED.

BY THE COURT:

JAMES MCGIRR KELLY, J.